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May 24, 1994

Robert Oberthaler
Manager, Office of Land and Water Planning
Department of Environmental Protection and Energy
CN-423
Trenton, New Jersey, 08625

SUBJECT: Adoption of the Surface Water Quality Standards

Dear Mr. Oberthaler,

Please accept this letter as a certification, pursuant to 40 C.F.R. § 131.6, that the three sets of amendments to New Jersey's Surface Water Quality Standards, as described below, were duly adopted pursuant to State law. The Surface Water Quality Standards, which are presently codified at N.J.A.C. 7:9B, were amended on three occasions in the past year. The adopted amendments regarding surface water classifications, antidegradation designations, and thermal criteria were published in the New Jersey Register on August 16, 1993 (25 N.J.R. 3755(a)). The adopted amendments regarding numerical water quality criteria for toxic pollutants were published in the New Jersey Register on December 6, 1993 (25 N.J.R. 5569(a)). Lastly, the adopted amendments regarding the Wallkill River classification and mixing zone requirements were published in the New Jersey Register on February 22, 1994 (26 N.J.R. 1124(a)).

Accordingly, I hereby certify that the above three sets of amendments to the Surface Water Quality Standards were duly adopted and are enforceable pursuant to State law.

Very truly yours,

DEBORAH T. PORITZ
ATTORNEY GENERAL OF NEW JERSEY

By: 

Thomas A. Borden
Deputy Attorney General

c: John Covino, DAG

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Surface Water Quality Standards

N.J.A.C. 7:9B



NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION AND ENERGY

**Office of Land and Water Planning
April 1994**



STATE OF NEW JERSEY
Christine Todd Whitman, Governor

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND ENERGY
Robert Shinn, Commissioner

ENVIRONMENTAL REGULATION
John Weingart, Assistant Commissioner

SURFACE WATER QUALITY STANDARDS

Authority

N.J.S.A. 13:1D-1 et seq., 58:10A-1 et seq., and 58:11A-1 et seq.

Source and Effective Date

R.1993 d.610, effective December 6, 1993.

See: 24 N.J.R. 3983(a), 24 N.J.R. 4471(a), 25 N.J.R. 404(a), 25 N.J.R. 405(a),
25 N.J.R. 3755(a), 25 N.J.R. 5569(a), 26 N.J.R. 1124(a), 26 N.J.R. 1226(a)

Executive Order No. 66(1978) Expiration Date

Chapter 9B, Surface Water Quality Standards, expires on January 18, 1996

A copy of this document can be obtained by calling 609-633-1179
or by sending a written request to:

Steven P. Lubow
CN-423
Office of Land and Water Planning
Department of Environmental Protection and Energy
Trenton, NJ 08625

7:9B-1.5 Statements of policy

(a) General policies are as follows:

1. These Surface Water Quality Standards apply to all surface waters of the State.
2. Water is vital to life and comprises an invaluable natural resource which is not to be abused by any segment of the State's population or economy. It is the policy of the State to restore, maintain and enhance the chemical, physical and biological integrity of its waters, to protect the public health, to safeguard the aquatic biota, protect scenic and ecological values, and to enhance the domestic, municipal, recreational, industrial, agricultural and other reasonable uses of the State's waters.
3. Toxic substances in waters of the State shall not be at levels that are toxic to humans or the aquatic biota, or that bioaccumulate in the aquatic biota so as to render them unfit for human consumption.
4. The discharge in domestic or industrial wastewater of carcinogenic, mutagenic, or teratogenic substances is of particular concern to the Department. Human health-based ambient criteria have been established for carcinogenic substances at levels which would result in no greater than a one-in-one-million lifetime excess cancer risk for Group A and B carcinogens, under exposure assumptions appropriate for the designated uses of the waterbody. Criteria for Group C carcinogens, for which reference doses are not available, have been established at levels which would result in no greater than a one-in-one-hundred thousand lifetime excess cancer risk.
5. Existing uses shall be maintained and protected. Designated uses shall, as soon as technically and economically feasible, be attained wherever these uses are not precluded by natural conditions. Where existing criteria are inadequate to support the existing or designated uses, the criteria shall be changed to support the existing uses.
6. The restoration of saline waters to levels which permit unrestricted shellfish harvesting is an objective of the Department.

(b) Interstate waters policies are as follows:

1. The designated uses and water quality criteria for the fresh and saline waters under the jurisdiction of the Delaware River Basin Commission shall be as established in accordance with N.J.A.C. 7:9B-1.13, 1.14(c), and 1.14(d).

(d) Surface Water Quality Criteria for waters under the jurisdiction of the DRBC:

1. Mainstem Delaware River and Delaware Bay:
 - i. For parameters with criteria in "Delaware River Basin Commission, Administrative Manual - Part III, Water Quality Regulations," Article 3, dated May 22, 1991, including all amendments and future supplements thereto, the criteria contained therein are the applicable criteria.
 - ii. For parameters without criteria in "Delaware River Basin Commission, Administrative Manual - Part III, Water Quality Regulations," Article 3, dated May 22, 1991, including all amendments and future supplements thereto, the criteria at (c) above are the applicable criteria and shall be applied as follows:
 - (1) Criteria applicable to FW2-NT waters apply where salinities are less than or equal to 3.5 parts per thousand (ppt) at mean high tide;
 - (2) Criteria applicable to SE waters apply where salinities are greater than 3.5 ppt at mean high tide; and
 - (3) Where salinities vary from 3.5 ppt or less, to greater than 3.5 ppt, at mean high tide, the more stringent of the FW2-NT or SE criteria apply.
2. Tributaries to the mainstem Delaware River and Delaware Bay:
 - i. The applicable criteria are those contained in "Delaware River Basin Commission, Administrative Manual - Part III, Water Quality Regulations," Article 3, dated May 22, 1991 including all amendments and supplements thereto; or
 - ii. The criteria at (c) above, whichever are more stringent.
3. For all waters under the jurisdiction of the DRBC where criteria are not established in "Delaware River Basin Commission, Administrative Manual - Part III, Water Quality Regulations," Article 3, dated May 22, 1991, including all amendments and future supplements thereto, or at (c) above, the Department shall use criteria based upon the best available scientific information, in accordance with N.J.A.C. 7:9B-1.6(c)4iii and (d)1ii above, to establish water quality based effluent limitations.

**BASIS AND BACKGROUND
FOR THE 1992 PROPOSED REVISIONS TO THE
SURFACE WATER QUALITY STANDARDS**

State of New Jersey
Department of Environmental Protection and Energy
Environmental Regulation
October 1992

tried to develop an "acid soluble" analytical procedure which was intended to be more vigorous than the dissolved method, less vigorous than the "total recoverable" method and more representative of the biologically available portion of the total metal present. Problems in developing the "acid soluble" methods, including sample preservation, have resulted in the USEPA reconsidering its recommendation of "acid soluble" as the appropriate form for certain metals criteria. Therefore, the method for "total recoverable" more accurately measures the metal available under environmental conditions than the "total" metal while still ensuring that the criteria are protective.

The Department specifies "total recoverable metal" for metals whose aquatic criteria are identified in the 304(a)(1) criteria documents cited in the Gold Book (USEPA, 1986a) and its updates.

As previously mentioned, this change in the form of metals criteria in the SWQS is being proposed to be consistent with federal NPDES regulations. It is also necessary to propose a change to the NJPDES regulations at N.J.A.C. 7:14A-3.14(c), calculating NJPDES permit conditions for metals, to ensure that effluent limitations based on these criteria are expressed as "total recoverable metal" as well.

K. DELAWARE RIVER AND DELAWARE BAY

The Department is proposing to change N.J.A.C. 7:9-4.14(d) by replacing the table of DRBC criteria and incorporating by reference the Delaware River Basin Commission (DRBC) criteria contained in "Delaware River Basin Commission, Administrative Manual - Part III, Water Quality Regulations," Article 3, dated May 22, 1991 and all amendments and future supplements thereto. Because the Department and the DRBC do not follow the same rulemaking schedules, the SWQS and the DRBC regulations will periodically contain different criteria for the mainstem Delaware River and Delaware Bay. The criteria in N.J.A.C. 7:9-4.14(d) accurately reflected the DRBC criteria when the SWQS were adopted in August of 1989. However, the DRBC modified their criteria in May of 1991. Because of this, the criteria listed in N.J.A.C. 7:9-4.14(d) do not accurately reflect the current DRBC criteria. To ensure adequate opportunities for public input, the Department will work with the DRBC to arrange for public notice to affected New Jersey parties and at least one public hearing in New Jersey on any DRBC proposals to modify the ambient water quality criteria for the mainstem Delaware River and Delaware Bay.

N.J.A.C. 7:9-4.14(d) is also being proposed for modification to specifically incorporate by reference the criteria at N.J.A.C. 7:9-4.14(c) for toxic substances for which the DRBC has not adopted criteria and to incorporate the use of Best Available Scientific Information-based Criteria when neither the Department nor the DRBC have adopted criteria. This will clarify which

criteria will be used in regulating the discharge of toxics to the Delaware River and provide more uniformity between member states in their regulation of toxic substances. The DRBC is currently working on a toxics criteria proposal and public hearings on the DRBC proposal are expected to be held later this year. Finally, the Department is proposing to replace the listing of designated uses for the mainstem Delaware River and Delaware Bay at N.J.A.C. 7:9-4.13 and incorporate by reference the designated uses contained within the DRBC regulations in Article 3.

L. SURFACE WATER CLASSIFICATION CHANGES

Surface water classifications are being amended so that the classification tables are internally consistent and free from incorrect or incomplete listings. Many nonsubstantive spelling changes are being made to correct errors in town or waterway names. Changes to some local creek, roadway, and river names are being made to names used on United States Geological Survey quadrangle maps. Town names or other descriptive place names are being added to waterways for clarity. In general, changes are proposed to the descriptive listings to provide more accurate descriptions and eliminate confusing listings.

In Tables 1 through 5 (the Tables referred to in the discussion of Surface Water Classification Changes refer to tables in the regulations, not tables in this document), the names of State parks, forests and wildlife management areas are updated to reflect names currently used by the Department. Names of these areas were previously updated in Table 6 during the 1985 review/revision of the SWQS. Likewise, many descriptions of FW1 waters in Table 6 were clarified and amended during the 1985 review/revision but the same waterway descriptions were not changed in Tables 1 through 5. These description revisions are now being made to reflect those descriptions already incorporated into Table 6.

Finally, a number of the State's waters are proposed for designation as Category one (C1). These waters represent waters adjacent to, between, or upstream of other high quality waters. These waters were identified as the Department continued to update its classification maps to show the changes resulting from the August 1989 revisions to the SWQS. The classifications proposed for change are provided in the discussion in Section III.

No waters are proposed for reclassification to less restrictive uses as part of the proposal.

M. COMMENTS ON THE READOPTION OF N.J.A.C. 7:9

The Department proposed the readoption, without changes, of N.J.A.C. 7:9, on November 20, 1990. This was done to avoid the expiration of these regulations on January 21, 1991 under